

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

IN RE: ETHICON, INC.
PELVIC REPAIR SYSTEMS
PRODUCTS LIABILITY LITIGATION

MDL No. 2327

THIS DOCUMENT RELATES TO ALL CASES

PRETRIAL ORDER # 32

(Plaintiffs' Motion to Compel AdvaMed's Response to Subpoena)


In this multi-district litigation ("MDL") concerning mesh products used to repair pelvic organ prolapse and stress urinary incontinence, the plaintiffs have moved the court to compel third party AdvaMed to provide testimony and to produce documents relating to pelvic repair systems products (ECF No. 372). The United States District Court for the District of Columbia issued the subpoena (ECF No. 372-10), and the plaintiffs served the subpoena on AdvaMed, which is located in the District of Columbia. The subpoena was returnable in Washington, D.C. AdvaMed filed Objections and Responses to the Subpoena in the District of Columbia (ECF No. 372-12).

Fed. R. Civ. P. 45(c)(2)(B)(i) provides that a motion to compel compliance with a subpoena should be filed in the issuing court. In another MDL, the parties agreed to have a subpoena dispute resolved in this court to "ensure consistency in approach and application of orders governing discovery in the litigation." *In re C.R. Bard, Inc. Pelvic Repair Systems Products Liability Litigation*, No. 2:10-md-02187, ECF No. 244, at 1 n.1. The plaintiffs seek to have the dispute decided in this court. It is hereby **ORDERED** that on or before **January 23, 2013**, AdvaMed will file a document in this

court, stating whether it stipulates and agrees to adjudicate the subpoena in this court or whether it wishes to defend the matter in the U.S. District Court for the District of Columbia. If AdvaMed agrees to this court hearing the matter, its response to the Motion to Compel shall be filed by **February 1, 2013**, and the plaintiff's reply shall be filed by **February 11, 2013**. If AdvaMed wants to defend in the District of Columbia, this court will promptly transfer the Motion to Compel for further proceedings in that court.

The court **DIRECTS** the Clerk to file a copy of this order in 2:12-md-2327 and it shall apply to each member related case previously transferred to, removed to, or filed in this district, which includes counsel in all member cases up to and including civil action number 2:13-cv-00869. In cases subsequently filed in this district, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the complaint. In cases subsequently removed or transferred to this court, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide by all pretrial orders previously entered by the court. The orders may be accessed through the CM/ECF system or the court's website at www.wvsd.uscourts.gov. The court further **DIRECTS** the Clerk to provide a copy of this Order to counsel for AdvaMed, Allen M. Gardner, Latham & Watkins LLP, 555 Eleventh St., N.W., Suite 1000, Washington, D.C. 20004-1304 by mail and to transmit it to him at Allen.Gardner@lw.com.

ENTER: January 18, 2013


Mary E. Stanley
United States Magistrate Judge